

RESPONSE TO COMMENTS
Relating to 401 KAR 50:038
Energy and Environment Cabinet
Kentucky Department for Environmental Protection
Division for Air Quality

- I. The public hearing on the establishment of the appropriate Title V Air Emission Fees in accordance with 401 KAR 50:038, Air Emission Fee, was held virtually on November 29, 2021, at 10:00 a.m. by the Division for Air Quality (Division).
- II. The following persons submitted comments (oral and/or written):

<u>Name and Title</u>	<u>Agency/Organization/Entity, Other</u>
Doug Bramer, VP of Operations Seth D. Cutter, Director	Bavarian Trucking Co., Inc. Communications and Government Affairs, Cincinnati/Northern Kentucky International Airport (CVG)
Mark Pendley, Environmental Team Leader	Logan Aluminum, Inc.

- III. The following people from the Division for Air Quality responded to the comments:

<u>Name and Title</u>
Cassandra Jobe, Environmental Control Supervisor Lisa Jones, Environmental Scientist III

- IV. Summary of Comments and Responses:

Subject Matter: Reasonable costs of administering permit program

Commenters: Doug Bramer and Mark Pendley

Comment: The commenters are requesting more information on the cost to administer the permit program to determine the reasonableness of the Title V air emissions fees.

Response: The Division acknowledges the comments. The Division for Air Quality's budget is set by the Legislature on a biannual basis and allocated to meet costs associated with administering the permit program. Title V air emission fees are deposited into a Trust and Agency account and subject to KRS 45.253. Pursuant to KRS 45.253(3), the "Finance and Administration Cabinet shall credit all receipts to the budget unit and shall keep separate accounting for each account so established." In addition, pursuant to KRS 45.253(4), "[t]he amounts credited to any revolving, trust, or agency account so provided, shall be held available for disbursement for the purpose provided by law and shall not be diverted to any other purpose." No changes to the FY22 Title V air emissions fees are being made based on the comments received.

Subject Matter: Calculation of the Title V air emission fees

Commenter: Mark Pendley

Comment: The commenter requests further details regarding the calculation of the Title V air emission fees.

Response: The Division acknowledges the comment. 401 KAR 50:038, Section 4, regulates the calculation of emission fees by the Cabinet. The Cabinet has used the calculation in the applicable regulation to determine the fees proposed. For specific information requested, such as the number of permitted sources used in the calculation for fees, as proposed, the commenter should make a formal open records request pursuant to the Kentucky Open Records Act, KRS 61.870 to KRS 61.884. No changes to the FY22 Title V air emissions fees are being made based on the comment received.

Subject Matter: Fee structure

Commenter: Seth D. Cutter

Comment: The commenter expresses concern regarding the fee structure by permit type and requests tiering based on actual emissions and not on permit type.

Response: The Division acknowledges the comment. 401 KAR 50:038 is not currently in the process of a regulatory amendment with the Legislative Research Commission. Therefore, only the proposed fees based on the current regulation is being considered at this time. No changes to the FY22 Title V air emissions fees are being made based on the comment received.

V. Summary of consideration and action taken by administrative body:

The virtual public hearing was held on November 29, 2021, at 10:00 a.m. by the Division for Air Quality. Based on consideration of the oral and written comments received, the proposed FY22 Title V air emission fees were not changed after comments.